

1 BY MS. WEIRICK:

2 Q. So in light of that, let me change my
3 question, which is: A scope of work has not been
4 prepared yet as to ARCO 3085?

5 A. We don't have a specific remediation
6 scope of work for ARCO 3085.

7 Q. Do you know when you might have one?

8 MR. SAWYER: Objection. Calls for
9 speculation.

10 THE WITNESS: No, I don't.

11 BY MS. WEIRICK:

12 Q. Does OCWD believe that MTBE and TBA
13 contamination have -- has escaped remediation at ARCO
14 3085?

15 MR. SAWYER: Objection. Improper contention
16 question. Compound. I further object to the extent
17 it's been asked and answered in his testimony earlier
18 today. I further object to the extent it calls for
19 expert testimony.

20 THE WITNESS: Well, I'm not an expert in
21 remedial technology. I do recognize that MTBE and/or
22 TBA contamination that was released from this site
23 has gotten into off-site wells. Remediation activity
24 at the site, I believe, has been discontinued, and
25 that there was contamination in the wells at the last

1 time that any testing was done, therefore, I believe
2 that that contamination has not been remediated, has
3 not been contained, and is continuing to migrate from
4 the site.

5 BY MS. WEIRICK:

6 Q. I'm sorry. Maybe I misheard your
7 answer. Did you say that remediation activities have
8 been discontinued at this site?

9 A. I don't recall what the status
10 of remediation is at this site. But I don't believe
11 that the contamination detected in the off-site wells
12 is being captured or contained.

13 BY MS. WEIRICK:

14 Q. So it's not your testimony that
15 remediation has been discontinued at this site?

16 A. I'm saying --

17 MR. SAWYER: Objection. Asked and answered.

18 THE WITNESS: I did answer that question.

19 BY MS. WEIRICK:

20 Q. Has the amount of MTBE contamination
21 that OCWD alleges has escaped remediation at this
22 site, is that amount significant?

23 MR. SAWYER: Objection, vague and ambiguous
24 in so far as the term "significant." I also object
25 to the extent it's been asked and answered.

1 THE WITNESS: It's certainly meaningful, in
2 that it indicates that contamination that was
3 released from this site did get into groundwater and
4 is migrating away from the site, insofar that it
5 threatens drinking water supplies. To me that's very
6 meaningful.

7 BY MS. WEIRICK:

8 Q. Can you assign a level of
9 concentration to the word meaningful?

10 A. No. No.

11 Q. Does OCWD know -- strike that.

12 When did the contamination from ARCO 3085,
13 that you believe is meaningful, escape remediation?

14 MR. SAWYER: Objection. Overly broad.
15 Vague. Ambiguous. I also object to the extent it's
16 been asked and answered or seeks an expert opinion.
17 Lack of foundation.

18 THE WITNESS: I don't know when it escaped
19 remediation.

20 BY MS. WEIRICK:

21 Q. You testified that the MTBE and TBA
22 contamination at ARCO 3085 has migrated off site. Do
23 you know in what direction?

24 A. I don't know in what directions. But
25 based on the figure that we were looking at earlier,

1 indicating a southerly flow direction, there's also a
2 northern flow component to off-site movement of water
3 at this site.

4 The contamination has been detected in a
5 number of off-site wells, including MW-6, which I
6 believe -- I believe that's MW-6, which is to the
7 west of the site. I can't read it very well. It
8 might be MW-5, but I believe it's MW-6. There's also
9 MW-11, MW-10, MW-4 to the south of the site and MW-5
10 to the southeast part of the site. Contamination has
11 been detected in all of those wells. And I believe
12 that is contamination that's escaped the site.

13 BY MS. WEIRICK:

14 Q. I think you just mentioned that the
15 contamination migrated generally to the south but
16 that there was a northerly -- northerly component?

17 MR. SAWYER: You're repeating his testimony
18 and then asking him another question about whether he
19 said what he just said. And so I'm going to object
20 on the grounds it's been asked and answered.

21 MS. WEIRICK: I just want you to explain the
22 northerly component of your previous answer. And I
23 was trying to summarize his previous answer because
24 it was fairly long.

25 MR. SAWYER: Okay. Well, my objection still

1 A. We were talking about the
2 contamination that remained in groundwater after the
3 no further action letter had been issued.

4 Q. Is there anything else that you can
5 recall from the conversation?

6 A. No, I can't.

7 Q. Did you and Mr. Herndon discuss
8 taking any course of action in response to this
9 closure?

10 A. No, I don't. I don't remember that.
11 Not any specific course of action.

12 Q. Other than the conversation that we
13 just discussed, are you aware of whether or not
14 Mr. Herndon took any kind of action after receiving
15 Exhibit 146, the February 8th letter -- or 6th
16 letter?

17 A. I don't know what action Roy might
18 have taken. I'm not sure what action you might be
19 referring to.

20 Q. I'm really just curious to know. I'm
21 not referring to anything in particular.

22 A. I don't know what action he took.

23 Q. Did OCWD object to the closure of
24 Mobil 18-HEP to the Regional Board?

25 MR. SAWYER: I will object, to the extent it

1 uses the term "object," as vague and ambiguous.

2 THE WITNESS: I don't recall submitting a
3 written objection. I don't recall whether we had
4 discussions with the Water Board after this letter
5 came out or what we did.

6 BY MS. ROY:

7 Q. Do you have any recollection of
8 having any communication with the Regional Board
9 about closure of Mobil 18-HEP?

10 MR. SAWYER: Objection. Asked and answered.
11 Argumentative.

12 THE WITNESS: I don't.

13 BY MS. ROY:

14 Q. In terms of assembling your binders,
15 if there had been a written objection or a letter
16 sent to the Regional Board from OCWD related to
17 closure of Mobil 18-HEP, is that the sort of document
18 that you would have pulled to include in your binder?

19 MR. SAWYER: Objection. Calls for
20 speculation.

21 THE WITNESS: It is certainly one I would
22 have -- if I didn't have it in the binder, it's one
23 I certainly would have made note of in my summary
24 notes.

25 ///

1 BY MS. ROY:

2 Q. And there aren't any in your summary
3 notes; is that correct?

4 A. And there aren't any in my summary
5 notes. I don't think we had any -- there was any
6 kind of a document like that.

7 Q. Other than communication with the
8 Regional Board, putting that aside since we just
9 talked about that, did OCWD discuss closure of Mobil
10 18-HEP with anyone or any other entity?

11 A. I don't recall whether we had
12 discussion about the closure with -- with anybody
13 else.

14 Q. Okay. Now, other than the particular
15 conversation that you just referenced between you and
16 Mr. Herndon about closure, do you recall any other
17 internal communication amongst anyone at OCWD about
18 the closure of Mobil 18-HEP?

19 A. I don't recall for certain. I know
20 we've had conversations with our assistant general
21 manager that oversees our department, keep him posted
22 on our activities. It's possible that Mobil 18-HEP
23 came up in a reference as to a site that was
24 closed by the agency.

25 I just remember these concentrations,

1 documents in the past -- it's not specific to this
2 site, but there have been occasions when Roy Herndon
3 or I have been CC'd on a document that I believe the
4 regulatory agencies intended for us to receive or,
5 thought we had received, but we did not receive. So
6 sometimes, for whatever reason, documents or letters
7 fall through the cracks.

8 And I cannot say -- unless I can find a
9 copy, I cannot say whether Orange County Water
10 District actually received this letter dated
11 March 16, '07.

12 Q. Understood. But OCWD was certainly
13 aware in March of 2007 that the Regional Board was
14 issuing a closure letter for Mobil 18-HEP; is that
15 correct?

16 MR. SAWYER: Objection. Lack of foundation.

17 THE WITNESS: Just a brief second. Yes, as
18 a result of the -- I believe as a result of the
19 February 6, 2007 letter, from the Water Board to
20 Marla Guensler, that the District knew the Water
21 Board was closing this site.

22 BY MS. ROY:

23 Q. All right. I'd like to direct your
24 attention to -- actually, let me back up.

25 You mentioned when you referenced the

1 THE WITNESS: No, I don't know when the last
2 release was.

3 BY MS. ROY:

4 Q. Do you recall seeing any
5 documentation in your files about when releases
6 occurred at Mobil 18-HEP?

7 MR. SAWYER: Same objection. Overly broad.
8 Vague and ambiguous.

9 THE WITNESS: Yes, I believe there are some
10 Unauthorized Release Reports for this site in Tab --
11 after Tab 4.

12 BY MS. ROY:

13 Q. And looking at your notes, your
14 Exhibit 142, I note that the most recent one that you
15 reference is one occurring in 1998; do you see that?

16 A. In my notes. That is the last
17 Unauthorized Release Report that I believe I have
18 seen. Yes, there is one that was reported on
19 September 24th, 1998. I don't know what happened
20 after that.

21 Q. And do you know when Mobil 18-HEP
22 ceased operations?

23 A. No, I don't.

24 Q. I will represent to you -- well, do
25 you know when the tanks were removed from Mobil

1 18-HEP?

2 A. I believe -- I have in my notes that
3 USTs were removed in September '98. I don't know
4 about anything after that.

5 Q. And have you seen any documentation
6 suggesting that any leak occurred after that time?

7 A. No. I don't know that I have seen
8 all of the underground -- the tank release reports,
9 but I haven't seen anything after that date that I
10 recall.

11 Q. All right. Is it safe to assume
12 though that if all the tanks are pulled, that there
13 probably isn't another release that's going to occur
14 after that?

15 MR. SAWYER: You are assuming facts not in
16 evidence. You're assuming that all the tanks were
17 pulled. Lack of foundation. Based on assumption of
18 facts that aren't in evidence.

19 THE WITNESS: I don't know that there --
20 whether there were any tanks installed after that,
21 and I don't know whether all of the tanks were
22 removed.

23 BY MS. ROY:

24 Q. All right. Mr. Bolin, I'd like you
25 to go back to Exhibit 48, which should be sitting

1 UNITED STATES DISTRICT COURT

2 SOUTHERN DISTRICT OF NEW YORK

3 _____ X

4 In re: Methyl Tertiary Butyl Ether

5 ("MTBE") Products Liability Litigation

6 _____ X

7 Master File No. 1:00-1898

8 MDL No. 1358 (SAS)

9 M21-88

10 _____ X

11 CONFIDENTIAL (Per 2004 MDL 1358 Order)

12
13 VIDEOTAPED 30(b)(6) DEPOSITION OF

14 David P. Bolin

15 November 5, 2008

16
17 Taken at 600 Anton Boulevard, 18th
18 Floor, Costa Mesa, California, before Harry
19 A. Palter, California Certified Shorthand
20 Reporter No. 7708, Certified LiveNote
21 Reporter.

22
23 GOLKOW TECHNOLOGIES, INC.
24 877.370.3377 ph|917.591.5672 fax
deps@golkow.com

1 to the Regional Water Quality
2 Control Board.

3 MS. WEIRICK: Okay.

4 Let's turn to your notes
5 for this site.

6 And I will mark them as an
7 exhibit.

8 These will be Exhibit 168.

9 - - -

10 (Whereupon, Exhibit 168, Thrifty #008
11 report, was marked for identification)

12 - - -

13 MR. SAWYER: Thank you very
14 much.

15 That was 168?

16 MS. WEIRICK: 168.

17 MR. SAWYER: Okay.

18 BY MS. WEIRICK:

19 Q. Mr. Bolin, are these the notes
20 that you prepared on Thrifty 008 for your
21 deposition aid?

22 A. Yes.

23 Q. And on what information did you
24 base these notes?

1 A. On -- based on documents that
2 I've reviewed associated with these -- with
3 Thrifty station 008, on some analytical
4 information from the District's database,
5 including well-specification information,
6 distances, or locations of various wells, and
7 such general information.

8 Q. Do you see about halfway down
9 the page you have here, "MTBE first detected,
10 4-8-03, in MW-8 at 43 milligrams per
11 liter"?

12 A. It's actually "micrograms."

13 Q. "Micrograms."

14 Excuse me.

15 A. I do see that.

16 Q. And do you see where you've
17 noted MTBE plume already migrated past MW-28?

18 A. Yes.

19 Q. On what information are you
20 basing that the MTBE plume had already
21 migrated past MW-28?

22 A. Because MTBE was detected in
23 MW-28 the first time it was tested.

24 Q. So if MTBE was detected in

1 I'm marking the notes -- your
2 notes for Thrifty 376 that were in
3 the binder provided to the
4 defendants, as Exhibit 171.

5 - - -

6 (Whereupon, Exhibit 171, Thrifty
7 station reports, was marked for
8 identification)

9 - - -

10 THE WITNESS: (Examining
11 document).

12 MR. SAWYER: What's the
13 number?

14 MS. WEIRICK: Exhibit
15 No. 171.

16 BY MS. WEIRICK:

17 Q. And are these the notes that
18 you prepared?

19 A. They look different.

20 But, yes, these are the notes.

21 Q. How do they look different?

22 A. These are just formatted a
23 little different.

24 I use an Excel spreadsheet.

1 You've got lines on yours; mine
2 don't.

3 You have truncated some of the
4 tables. They spill over to different pages.

5 But, yes, these are the notes.

6 Q. Okay.

7 If there's any difference
8 between the set that you have and the set
9 that has been marked as Exhibit 71,
10 will you be sure to point that out?

11 A. I will.

12 I believe they're the same.

13 Q. If you look at page 1, the
14 first page that has the last three digits,
15 389 with an OCWD prefix, you note at
16 the top of the page that, "A few leaks
17 were detected at the site in 1994 and 2003
18 during facility (tanks, dispensers, and
19 pipes) upgrade/replacements, and as a result
20 of inventories shortages."

21 On what information do you base
22 the statement about inventory shortages?

23 A. These would be, I believe,
24 documents in tab -- I can't recall

1 UNITED STATES DISTRICT COURT

2 SOUTHERN DISTRICT OF NEW YORK

3 _____ X

4 In re: Methyl Tertiary Butyl Ether

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6 _____ X

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8 MDL No. 1358 (SAS)

9 M21-88

10 _____ X

11 CONFIDENTIAL (Per 2004 MDL 1358 Order)

12
13 VIDEOTAPED 30(b)(6) DEPOSITION OF

14 David P. Bolin

15 November 6, 2008

16
17 Taken at 650 Town Center Drive,
18 20th Floor, Costa Mesa, California, before
19 Harry A. Palter, California Certified
20 Shorthand Reporter No. 7708, Certified
21 LiveNote Reporter.

22
23 GOLKOW TECHNOLOGIES, INC.
24 877.370.3377 ph|917.591.5672 fax
deps@golkow.com

1 some remediation.

2 Q. What type of remediation was
3 that?

4 A. There was some free-product
5 removal from a number of wells.

6 There was -- soil-vapor
7 extraction was initiated seven years after
8 contamination was identified.

9 Q. Anything else?

10 A. There was some soil excavated
11 very early. But the groundwater wasn't
12 addressed.

13 Q. How long has the soil vapor
14 extraction been occurring at the site?

15 A. Well, I'm not sure.

16 It was initiated in 1996, seven
17 years after contamination was identified in
18 soil and groundwater, but it was not
19 continuous and was operated through -- I
20 think -- 2005 on an occasional basis.

21 Q. Does OCWD -- let me back up.

22 Does OCWD think that this
23 remediation has successfully captured the
24 MTBE, at least from this site?

1 MR. SAWYER: Objection.
2 Contention question.
3 Improper expert opinion.
4 Vague, ambiguous.
5 Overly broad.
6 Lack of foundation.
7 You can answer with any
8 personal observations. No expert
9 opinion.

10 THE WITNESS: I certainly
11 don't think that the remediation
12 has captured or contained
13 contaminated groundwater in this
14 case, given that SVE has a limited
15 radius of influence, in general.

16 There has been
17 contamination detected in
18 virtually all of the downgradient
19 offsite wells, and there's been no
20 remediation offsite from this
21 station location.

22 And it's contamination
23 that's detected in wells that were
24 installed for the purpose of this

1 particular site investigation.

2 I think the contamination
3 has escaped -- remediation has
4 escaped the site and is still out
5 there.

6 BY MR. ANDERSON:

7 Q. When did you come to that
8 conclusion?

9 A. I can't give you a specific
10 date.

11 It was the result of my
12 evaluation of this site.

13 Q. Was it in the last year?

14 A. Well, I can't give you a
15 specific date.

16 It was sometime after I began
17 looking at this site, and I can't be certain
18 of when, exactly, that was.

19 It was within the last three
20 years.

21 Q. Have you told any regulatory
22 agency that you've come to that conclusion?

23 A. I don't recall having any
24 conversations with any regulatory agencies

1 when and how we're going to further
2 investigate this site.

3 Q. Does OCWD -- well, back up.

4 Has OCWD concluded that MTBE
5 has migrated offsite?

6 MR. SAWYER: Objection.

7 Asked and answered
8 extensively today and yesterday.

9 Vague, ambiguous.

10 I also object to the extent
11 it's an improper contention
12 question, or seeks expert opinion.

13 THE WITNESS: Well, I'm not
14 an expert in fate and transport
15 analysis, mind you, but there has
16 been no offsite investigation here
17 and there were some pretty high
18 concentrations that were detected
19 in the -- in site margin wells,
20 including MW-4, which is pretty
21 close to the site margin, and
22 nothing was tested downgradient
23 from there.

24 So it appears to me that in